

Viktor Baransky - CONFIDENTIAL - December 12, 2013 113

1 A No.

2 Q Correct?

3 A There was another guy who got shares
4 before. I don't know when, but couple of years before.

5 Q Well, I'm going through -- I'm looking at
6 the audited reports of Price Waters Coopers -- and you
7 know who they are; right?

8 A Yes.

9 Q They are accountants; correct?

10 A Yes.

11 Q And they were ICI's accountants; correct?

12 A As far as I recall, yes.

13 Q And did you ever talk about the business
14 with your father? Did you ever talk about the ICI
15 business with your dad?

16 MR. CHALOS: When?

17 THE WITNESS: When?

18 BY MR. BENNETT:

19 Q At any point in time.

20 A Of course I talked.

21 Q I mean, you -- at the age of 19, were you
22 living in your house with your parents?

23 A No. No. No. First of all, my parents
24 are divorced ten years already. Since 2003, if I'm not
25 wrong. And I was living, at the age of 19, I think I

Viktor Baransky - CONFIDENTIAL - December 12, 2013 114

1 was living -- I was living with my mother at the age of
2 19.

3 Q And when you went into the office, did
4 you see your dad?

5 A When?

6 Q In 2008.

7 A In 2008? Of course I did.

8 Q And did you discuss the business with
9 him? I mean, did he teach you the business?

10 A I wouldn't say so. He is not -- he
11 himself, he is not -- he never chartered any ship. How
12 could he teach me to charter ships?

13 Q What is -- he's the banker, the money
14 man?

15 A No, he is a not a banker. He is a
16 shipping man. But do you want me to tell -- tell you
17 where he was working? His working experience?

18 Q Sure.

19 A He was working as a stevedore in the
20 port. He was working, maybe later probably chief
21 stevedore. Then after collapse of Soviet Union, he
22 established company with two other partners. He was
23 doing crew manning, as far as I know, and probably
24 forwarding business, which is -- which is the standard
25 scope of business in the region because there are a lot

Viktor Baransky - CONFIDENTIAL - December 12, 2013 115

1 of ports and many people do that.

2 Q And then was Diamant the first company
3 that he formed as part of his entrepreneurship?

4 A I really don't know. I am not familiar
5 with this.

6 Diamant was a well-known company in the
7 city. Everybody knew it, so -- but apart from that, I
8 don't know.

9 Q And who told you that you were given
10 18 percent shares?

11 A I think -- well, I was told definitely by
12 some board members, maybe by both of them. By my
13 father and the CFO.

14 Q Where -- do you recall that conversation?

15 A No, I don't recall.

16 Q So you don't know where you were when
17 that took place?

18 A In -- in executive floor. Because we
19 kept, in our office, two floors. Working floor and
20 executive floor. My father was sitting on executive
21 floor, on second floor.

22 Meetings rooms were also on the second
23 floor. I think probably in the meeting room or
24 wherever.

25 Q And who told you -- who actually told you

Viktor Baransky - CONFIDENTIAL - December 12, 2013 116

1 that you were going to get shares?

2 A I think my father and Vitale Cherepanov,
3 I think so. It should be so because they were --

4 Q Who was the CFO for ICI at that time?

5 A Vitale Cherepanov.

6 Q And did Anatoliy -- your CFO, work
7 underneath Mr. Cherepanov at ICI?

8 A No.

9 Q When you were given 18 percent interest
10 in ICI, you became the third largest shareholder in
11 that company, didn't you?

12 A I don't know, if -- I don't recall.
13 Maybe I became -- I don't think so. I think maybe four
14 is shareholder. What is shareholder distributions as
15 far as people -- can you --

16 Q When you became an 18 percent
17 shareholder, did you know what -- what the others'
18 percentages of shareholdings were?

19 A I think I knew. Yup, I think I knew.

20 Q And were your other shareholders okay
21 with you getting nearly 20 percent of the company --

22 MR. CHALOS: Objection.

23 BY MR. BENNETT:

24 Q -- or was there disagreement among the
25 shareholders?

Viktor Baransky - CONFIDENTIAL - December 12, 2013 117

1 MR. CHALOS: Objection to the form.

2 THE WITNESS: I'm --

3 MR. CHALOS: Calls for speculation.

4 THE WITNESS: To be quite frank, I am not
5 familiar about the opinions of all other shareholders.

6 I could not comment.

7 BY MR. BENNETT:

8 Q And prior to becoming a shareholder, were
9 you aware of whether ICI had shareholder meetings?

10 A I was aware that there are shareholder
11 meetings, yes, I was aware, yeah.

12 Q And were you ever invited to a
13 shareholder meeting?

14 A I don't recall.

15 Q Was there anybody else in the company
16 that knew that you were to receive 18 percent of the
17 shares?

18 A You're talking about employees?

19 Q Yes.

20 Was it a secret or was it public
21 knowledge that you were going to get 18 percent of
22 the --

23 A It was not a secret for sure.

24 Q Was there a company announcement that was
25 made?

Viktor Baransky - CONFIDENTIAL - December 12, 2013 118

1 A No, there was no company announcement;
2 however, it was not keeping from anybody. Everybody
3 could discuss it. I don't remember me discussing it
4 with somebody, but I think it was -- no.

5 Q And did -- under Ukrainian law, did you
6 need to register those shares?

7 A No. You don't need to register the
8 shares.

9 Q Prior to becoming a shareholder were you
10 aware of whether ICI had shareholder distributions?

11 A Yes.

12 Q And how often did they have shareholder
13 distributions? Quarterly?

14 A I don't know.

15 Q Did you ever get a shareholder
16 distribution?

17 A No, never. I heard actually, as far as I
18 was told, I heard I would not have any distributions --
19 even if the company would exist and continue operating,
20 I would not have distributions for a couple years
21 because my distributions would have to go and buy out
22 the equity, equity of the company. That's what I was
23 told.

24 Q Where was the equity of the company held,
25 what bank account?

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 119

1 A I don't know. I was not in possession of
2 financials of the company. However, I believe the main
3 accounts were in HSBC.

4 Q And did you sign a shareholder agreement
5 at all?

6 A No, I didn't sign any -- any agreement
7 connected to shareholding, any -- nor have I ever seen
8 any paper connected with my shareholders. I know it
9 was a company which was supposed to hold my shares in
10 Industrial Carriers.

11 Q Was Mr. -- Mr. Cherepanov was CFO?

12 A Yes.

13 Q What position did Mr. Tarasov hold?

14 A He not held any position.

15 Q Was he related by blood or marriage to
16 you?

17 A No.

18 Q What was his relationship to your father?

19 A They worked together before.

20 Q And he was a 17 percent shareholder of
21 the company prior to your joining and then his shares
22 were reduced to 14 percent. Was he -- did he work in
23 ICI?

24 A No.

25 Q Did he work in any capacity to assist ICI

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 120

1 doing its business?

2 A Only connections I would presume.

3 Q And what was his connections?

4 A I don't know. I just -- I think so. I
5 don't know. From my opinion, that was only assistance
6 he could make because he knew a lot of people and he
7 might do that. This is a guess.

8 Q And Mr. Kozminkikh, what was his role at
9 ICI?

10 A He was employee.

11 Q And what did he do?

12 A Same. Same as I was. He did chartering.

13 Q And was he good at his job?

14 A He was good at -- at what period of time
15 you are talking about?

16 Q 2008.

17 A In 2008 he was not that good.

18 Q Who in ICI was in charge of the FFA book?

19 A Michael Ivanov. Maybe somebody else as
20 well, but I do not recall. I recall Michael Ivanov.

21 Q And would you agree with me that it was
22 the FFA business that put ICI out of business?

23 A No, I would not agree.

24 Q So if ICI did not enter into FFAs they
25 would not be in existence today; they would still go

Viktor Baransky - CONFIDENTIAL - December 12, 2013 121

1 under?

2 A I think so. I believe so.

3 Q Why do you say that?

4 A Because apart from ICI -- there were, as
5 far as I recall, there were liabilities, big
6 liabilities.

7 Q Did you ever hear of a company called
8 Branwin Marine Corporation?

9 A Branwin? As far as I recall, it is --
10 it's an affiliate of ICI?

11 Q Yes.

12 A Then --

13 Q And what about Blue Coast Navigation?

14 A Probably is the same.

15 Q And Fist, Inc.?

16 A I've heard the name but I cannot recall.
17 You see, I don't know --

18 Q When did you first come to learn that ICI
19 was going to file for bankruptcy?

20 A Talks about bankruptcy started in August,
21 sorts about, talks and sorts.

22 Q Who did you hear that from?

23 A I heard it from employees, I heard it
24 from -- from another guy who -- Andre Kozminkikh.

25 Probably my father should have told me this, I think

Viktor Baransky - CONFIDENTIAL - December 12, 2013 122

1 so.

2 Q And do you recall ever asking or being
3 invited to a shareholder meeting to discuss those
4 decisions?

5 A I do not recall.

6 Q Where did the money go?

7 A Which money?

8 Q All the money ICI made just prior to
9 bankruptcy.

10 Price Waters accountant says there was
11 about 40, \$50 million. Where did it go?

12 A Well, to the best of my knowledge -- to
13 the best of my knowledge, ICI was paying people
14 until -- well, until I left -- until I left, it was
15 paying, but, however, before -- I think in middle of
16 September probably or end of September it was announced
17 that they stop paying anybody. And that's -- that
18 actually is the time when I finally left.

19 But I say it was paying. I'm not sure to
20 whom they were paying and to which extent, but they
21 were paying its counterparts still. In September they
22 were still paying, as far as I recall.

23 Q Well, in mid September there was a
24 dispute -- prior to September 2008, there was a dispute
25 with Transfield; correct?

Viktor Baransky - CONFIDENTIAL - December 12, 2013 123

1 You're aware of that one; right?

2 A I don't recall. I recall, again,
3 Transfield, of course, I know it was a very
4 well-established company which, also, as far as I know,
5 went bankrupt. Of course I know Transfield.

6 I do not recall if we heard -- if we had
7 the contract, a charter party with them. I don't know.
8 Did we?

9 Q You probably know better than I do.

10 MR. CHALOS: Hold on a second. Let's not
11 have that. I know everybody's getting tired now.

12 MR. BENNETT: I'm just getting started.
13 I'm not tired.

14 BY MR. BENNETT:

15 Q So what you're saying is that ICI in
16 September and October were still paying counter
17 parties?

18 A No. I said in September I said it was,
19 to the best of my knowledge, was still paying, to the
20 best of my knowledge. However, I was not the one
21 executing financial transactions; it was purely Greek
22 office responsibility. I didn't know where the
23 bursar's account, nor where the money was paid, nor I
24 did receive the SWIFT.

25 I mean, how would I know? I just -- I

Viktor Baransky - CONFIDENTIAL - December 12, 2013 124

1 would know from operations guys, because we are sitting
2 on the same floor, that something is paid, something is
3 not paid. That's it.

4 Q Where are all the documents that were
5 created by ICI presently held?

6 A I don't know. How could I know?

7 Q Well, your father and yourself were
8 51 percent owners of ICI. You have a right to know.
9 Didn't you ever ask: Where are all our documents?
10 Where's ICI documents?

11 A When I was leaving I told both my father
12 to Cherepanov: Guys, I'm leaving. I have never seen
13 the shares. If they do exist, actually, I want them to
14 be -- no. Destroyed, you know, whatever. Whatever
15 they do with them. I am -- I am doing my own shop, you
16 know. That's it.

17 Q Where is your father today?

18 A I don't know. Maybe he's in Odessa.
19 Maybe he is traveling. I don't know.

20 MR. CHALOS: I don't think he meant
21 December 12th. I think he meant generally.

22 THE WITNESS: Today, but he said today.

23 MR. CHALOS: Okay.

24 BY MR. BENNETT:

25 Q Does your father assist you with Vista?

Viktor Baransky - CONFIDENTIAL - December 12, 2013 125

1 A Not at all.

2 Q Is Mr. Kozminkikh an employee of --

3 A Kozminkikh?

4 Q Yes. Does he work with you today?

5 A No. He has his own shop.

6 Q And what is his shop?

7 A It's called Faethon.

8 THE COURT REPORTER: Spell it, please.

9 THE WITNESS: I don't know. P-H or
10 F-A-E-T-H-O-N, probably.

11 BY MR. BENNETT:

12 Q When you first chartered -- when Vista
13 first chartered the HARMONY FALLON, was that a Panamax
14 vessel, did you say?

15 A Yeah, yeah.

16 Q And that was in what month?

17 A October.

18 Q Of 2008?

19 A Yes.

20 Q And what was the freight rates at that
21 time for a Panamax vessel?

22 A Freight rates, I do not recall. But they
23 were still not as bad, because in October the market
24 was already very much depressed; however, the bottom
25 was in December, as far as I recall.

Viktor Baransky - CONFIDENTIAL - December 12, 2013 126

1 THE WITNESS: Can we take a break?

2 MR. CHALOS: Bill, he wants to know if he
3 can take a break.

4 MR. BENNETT: No, no, sure. Good time to
5 take a break.

6 (Recess)

7 BY MR. BENNETT:

8 Q Mr. Baransky, can you put your statement
9 in front of you.

10 Go to paragraph 10.

11 A Yeah.

12 Q It states in the middle of the paragraph,
13 quote, "During September 2008 ICI had dozens of Panamax
14 vessels idle in the U.S. Gulf at approximately \$90,000
15 and higher per day."

16 Do you see that?

17 A Yeah.

18 Q Do you literally mean that there were
19 dozens of ships idle in the gulf?

20 A There were a lot of ships.

21 Q Well, what's a lot? Is it five? Six?

22 A No, there were dozens.

23 Q Dozens?

24 A Yeah.

25 Q In one area of the gulf?

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 127

1 A No. I wouldn't say that all of them were
2 in the U.S. Gulf. I mean, maybe, maybe a dozen in the
3 U.S. Gulf, a dozen in Singapore. I don't know. I
4 don't recall. But there were a lot of ships there
5 losing a lot of money.

6 Q Is that statement inaccurate then?
7 Because when I read it, it seems like you had 24 ships
8 sitting in the U.S. Gulf?

9 A Where do you get 24?

10 Q Well, "dozens" is plural. You know, one
11 dozen is 12.

12 A Oh, yeah, yeah.

13 Q It seems like a lot of ships to be in one
14 area.

15 A Well, to be absolutely accurate, I do not
16 recall all the areas where the ships were idle. I
17 do -- total amount of ships which -- I don't remember,
18 you know, time frame, but I think they had 60,
19 probably, or something like that --

20 Q That's --

21 A -- at any moment, at any moment.

22 Q It seems to be a lot of the same type of
23 ship in one area at the same price, which seems to be
24 not correct.

25 A Well --

Viktor Baransky - CONFIDENTIAL - December 12, 2013 128

1 Q I can't imagine a charterer would charter
2 dozens of ships at the same rate and put them in the
3 same area of the world. It doesn't make sense.

4 MR. CHALOS: Is that a question?

5 BY MR. BENNETT:

6 Q Does it make sense to you?

7 A Well, it can be. I cannot --

8 Q Well, where did you get that information
9 from then to say that?

10 A This information is from my belief.
11 Maybe, maybe not only U.S. Gulf, maybe also in
12 Singapore, but dozens is -- number is correct, dozens
13 of ships, yeah.

14 Q You mean dozens of ships around the
15 global ICI had on charter?

16 A Yeah, that would be more correct.

17 Q Okay. And were they all chartered in at
18 \$90,000? Because my memory, 2008, Panamax never got up
19 to 90,000?

20 A No, they got. They got. I recall they
21 were 90,000. Of course, not -- well, I do not recall
22 the rates exactly, no. I don't -- how can I remember
23 which was the rates at that time, you know? But the
24 amount was -- was significant.

25 Q Was it the practice of ICI to voyage

Viktor Baransky - CONFIDENTIAL - December 12, 2013 129

1 charter or time charter on a long-term basis?

2 A Both. Both. Both.

3 Q And in September of 2008 you had
4 mentioned about 60 ships that ICI had on charter?

5 A I -- I not telling about -- I said during
6 course of, let's say, 2008, there would probably be
7 about, from 50 to 65 ships at any given moment in
8 operations probably. That's what I recall.

9 Q Were they all subject to FFAs? Or did
10 you have --

11 A FFA is completely different thing. What
12 do you mean were they subject --

13 Q Is it fair to say then that the dozens of
14 ships that you're talking about that were subject to a
15 \$90,000 hire rate per day was based on charter party?

16 A No.

17 What we are talking about here is -- is
18 physical ships. It has nothing to do with FFA.

19 Q And do you have the charter parties for
20 those ships?

21 A No. Where would I get them from?

22 Q Well, did you, as being a member of the
23 chartering department --

24 A Yeah.

25 Q -- did you have charters that were

Viktor Baransky - CONFIDENTIAL - December 12, 2013 130

1 involved in these ships being idle that you recall?

2 A Some -- some of them I had, of course I
3 had. But they were all saved on the computers based
4 in -- in IC Ukraine, so --

5 Q I'm going to hand you the Complaint that
6 we filed, which has as an exhibit the Baltic index,
7 which starts January of '08 and goes up. And tell me
8 after you've had a moment to review that.

9 A This is Panamax and capes, all right, and
10 this is average for months is put here; right?

11 Is it average for months?

12 Q I believe so. I believe that's the index
13 right there.

14 Is my question to you is of those dozens
15 of ships, were they all chartered in or about the same
16 time?

17 A No.

18 Q Because the months --

19 A No. The -- Industrial Carriers was
20 working constantly. It wasn't like Industrial Carriers
21 suddenly took a lot of ships and that's it. There were
22 different trades; there were different commitments as
23 far as I recall. But there was not like Industrial
24 Carriers went to the market; we pick up everything.

25 Q But you'll see that when you read that

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 131

1 index from January '08 on to October of '08, the market
2 never hit 90,000; correct?

3 A Yeah, May -- this is average, no, this is
4 average for the month, so average for May was 81. So
5 probably within May, that probably was a time when it
6 was 90,000 because we don't have here a breakdown by
7 this.

8 Q So --

9 A Probably.

10 Q -- on that particular day that it did hit
11 90, did ICI go out and charter dozens of ships?

12 A No. No.

13 Q So what I'm saying is that the statement
14 in your declaration that ICI had dozens of ships in the
15 U.S. Gulf at \$90,000 a day is not correct. It's
16 inaccurate. Right?

17 A I think -- I think I have to agree with
18 you.

19 Q Okay. When you left -- you claim that
20 you ceased working at ICI in early of September of
21 2008?

22 A During course of September. I don't
23 remember. Early or mid. Probably mid. I don't know.
24 During course of September. I don't really recall.

25 Q And was that based upon ICI anticipating

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 132

1 filing for bankruptcy?

2 A No. At that time -- well, I don't -- I
3 don't really recall what was first, but either it was
4 first rumor about filing bankruptcy or whether it was
5 information that ICI stops paying. I don't recall what
6 was first.

7 But that was based on both factors: ICI
8 stopped paying and rumors that there are talks about
9 filing bankruptcy, right. And, actually, if you can
10 look at this index, you see in September it was 70,000.
11 In October it's 90,000.

12 So during course of September it dropped
13 quite significantly. It would be real interesting to
14 see the breakdown, breakdown for this. In November
15 it's 4,000.

16 Q I want to get back to -- so you leave in
17 September and then you get to your office in Vista in
18 November --

19 A No; October.

20 Q October. And your first ship is the
21 HARMONY FALCON?

22 A Right.

23 Q Do you recall who your counter party was
24 on that?

25 A Counter party of -- which counter party

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 133

1 are you talking about?

2 Q Well, why don't you explain the
3 transaction to me.

4 You go out, you charter the HARMONY
5 FALCON.

6 A Right.

7 Q For what purpose?

8 A To carry iron ore from Ukraine to China.

9 Q And whose iron ore was it?

10 A Metinvest.

11 Q And you're going to go from the Ukraine
12 to China?

13 A Right.

14 Q Who did you charter the HARMONY FALCON
15 from?

16 A What do you mean from?

17 Q Who was the owner of the HARMONY FALCON?

18 A It was Vietnamese, some Vietnamese
19 shipping company.

20 Q And it was a Panamax?

21 A Yeah.

22 Q And what was the hire rate that was
23 agreed in the charter party?

24 A Hire rate, to the best of my
25 recollection, it was between 15 and 18,000.

Viktor Baransky - CONFIDENTIAL - December 12, 2013 134

1 Q And how much money did you have to put up
2 front for the bunkers?

3 A Well, I don't recall. I mean, I can
4 make -- let's make assumptions now.

5 So if the ship is, what, okay, let's
6 assume 15,000 a day. Multiplied by 45 days, which is
7 the usual trip from -- but I don't remember where was
8 the delivery of the ship, maybe it was not in
9 Mediterranean Sea. I don't recall.

10 But, okay, let's assume 50 days, which 50
11 days -- 50 days, which, by 15,000, so 750,000 for the
12 hire, you have to put -- you have to put bunkers.
13 Bunkers are roughly about a thousand -- 1,200 tons of
14 fuel oil --

15 Q So that's about another \$600,000?

16 A No. At that time prices for bunkers --
17 I don't remember which ship was that, but I do remember
18 that at the beginning of Vista we had -- but it was the
19 lowest, of course. We had the figure of 190 bucks per
20 ton in Ukraine. That the lowest and maybe not proper
21 to attach -- to attach to this particular figure, but
22 you can estimate 220 bucks, roughly, during that period
23 of time because, as you remember, oil prices went down
24 and bunker prices dropped from -- and I don't know
25 where they were before, maybe 800, but they were quite

Viktor Baransky - CONFIDENTIAL - December 12, 2013 135

1 low.

2 Oil was \$150, as well as I recall; it
3 went down to 35 or something like that. And fuel oil
4 was same. So for fuel oil, 1,200, but 220 is what --
5 roughly about 250,000, 260,000 bucks probably is for
6 fuel -- is for fuel, so, okay, that's about roughly a
7 million. Then you have to pay DA, which is a hundred
8 thousand bucks.

9 So roughly one -- I would expect, before
10 receiving freight, I would have spent probably 1,
11 1.2 million.

12 Q And you'll agree with me that during the
13 time period of after the crash all the way through
14 2009, the margins that charterers were getting were
15 very, very small?

16 A No. I don't agree with you, absolutely.

17 Q You disagree with that?

18 A Yeah, I disagree.

19 Q So this voyage was profitable for you?

20 A Yeah, this voyage was profitable,
21 absolutely.

22 Q And who did you obtain your funds from?
23 You chartered; right?

24 A Yes.

25 Q Was it the receiver of the cargo?

Viktor Baransky - CONFIDENTIAL - December 12, 2013 136

1 A The funds?

2 Q Yes.

3 A No. I have personal funds, I have
4 borrowed funds, I have -- well, personal and borrowed
5 funds, yeah.

6 Q Okay. So what about the freight? Who
7 did you get the freight from?

8 A From Metinvest; from the charterer.

9 Q And who was your contact at Metinvest
10 personally?

11 A Well, so many people have changed. You
12 are talking about what time frame? A lot of people
13 have changed.

14 Q Did you have long-term contract with
15 Metinvest?

16 A No, never did.

17 Q So the borrowed funds; you mentioned you
18 received a million dollars from your mother?

19 A Right, about -- this is rough.

20 Q Is that U.S. dollars?

21 A That's all U.S. dollars, but that's
22 roughly. I do not recall exactly because this was in
23 cash. This was not in wire transfer or anything, so I
24 do not -- I cannot tell you exactly. This was crazy
25 time, you know, when I was running around all the

1 place.

2 Q So you actually had a million dollars of
3 cash?

4 A From my mother, yeah.

5 Q Yeah?

6 A Yeah.

7 Q In a suitcase?

8 A Yes, in a suitcase. That's quite normal
9 in Ukraine. Ukraine you can have millions of dollars
10 in suitcases. That's what it is.

11 Q Okay. And then -- so other than borrowed
12 money from your mother, you said you had personal
13 funds?

14 A Yeah, yeah.

15 Q And how much?

16 A As I told you, I have locked up funds
17 which were locked up, which I was receiving later, but
18 I didn't use them for this fixture because I was not
19 able to. Plus I have free funds, but to my best
20 recollection, I had -- well, I don't really remember,
21 but it would be between -- I think something about one
22 million, should be something like that.

23 Part of it was bonus from Industrial
24 Carriers and another part was the funds we should have
25 earned doing brokerage business. Because I didn't

Viktor Baransky - CONFIDENTIAL - December 12, 2013 138

1 invest whole amount, which I earned in brokerage. I
2 invest half. Another -- maybe not half. Maybe some
3 amount. Not amount -- I don't recall whether it was
4 also in the bank or it was -- or I cashed it out. I
5 don't really remember.

6 Q Did Vista need P & I cover immediately
7 upon --

8 A I think -- I think we did P & I cover,
9 but I think it was done later. I think for this
10 venture there was no P & I cover. I think P & I cover
11 was arranged in December most probably.

12 Q And after the FALCON, do you recall when
13 your next venture was?

14 A I don't recall next venture. I can
15 recall a couple of ships which I chartered during
16 course of December. It was TRANSOCEAN. It was MAGPIE,
17 M-A-G-P-I-E. That's -- I don't recall others.

18 Why MAGPIE was -- came into my head?
19 This was the cheapest ship we ever chartered; we paid
20 for her one and a half, well, 1500 bucks delivering,
21 taking delivery in Black Sea or Eastern Mediterranean,
22 delivered to China. We were paying 1500 bucks per day,
23 which was nothing, you know.

24 Q And what did that -- what cargo did that
25 carry? Metinvest cargo?

Viktor Baransky - CONFIDENTIAL - December 12, 2013 139

1 A Yes.

2 Q And what was Metinvest giving you per day
3 of freight?

4 A I don't recall really. I believe --
5 well, I don't recall for HARMONY FALCON because it was
6 more expensive. But I think from December the freights
7 were about -- ah, for MAGPIE, to the best of my
8 recollection, it was something in between 16 and 17
9 bucks. But this was the lowest. It was, I think, the
10 lowest freight we had.

11 Q So from the time that you started Vista
12 in November of 2008, you do the FALCON fixture, you
13 then have the MAGPIE fixture --

14 A As I told you, I don't remember the exact
15 order. There were a number of ships. In November we
16 have fixed number of ships, I don't remember, five
17 maybe or something like that. Then in January, more,
18 more, more, and started growing gradually.

19 Q So based upon your -- based upon the five
20 ships that you did in November, you would need about
21 five million dollars of capital to do that?

22 A No, no. I wouldn't say so. I wouldn't
23 say so.

24 Q You just explained to me that you would
25 need \$1.1 million for the FALCON and you just said that

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 140

1 you did five --

2 A No, no --

3 Q You said you did five fixtures in
4 November.

5 A Yes, yes.

6 Q You then did the MAGPIE and another ship
7 in December, so that's seven ships within 30 days.
8 You're going to need about 7, \$8 million?

9 A That's incorrect.

10 Q Okay. That's fine. If you think I'm
11 incorrect --

12 A But can I explain?

13 Q Sure, go ahead. Why don't you explain.

14 A FALCON is not representative fixture
15 because it was concluded, because it was concluded in
16 October 2008, at 20,000 bucks.

17 Next fixture, as I told you, were
18 concluded, to the best of my recollection, in December.

19 In December, average, as stated here, was
20 7,000. But, actually, we were fixing less. I don't
21 think it's actually correct. We were fixing, as I told
22 you, 1500, okay, that was the cheapest. But others,
23 maybe 1300. But the rest were very cheap.

24 In order to operate such a ship, if you
25 are paying 3,000 bucks per day, you estimate. Okay,

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 141

1 3,000 bucks by 40 days is 120,000 bucks for the ship,
2 which is absolutely nothing. You end up bunkers,
3 250,000, you're ending up 370 here. Your disbursement,
4 hundred thousand, 470 here. And that's it.

5 Q Well, on those numbers then, you're going
6 to need at least over five million dollars and all you
7 have told me about is about a million dollars from your
8 mom and a million dollars of savings.

9 A No, no, no. You need for a ship, at that
10 time, you would need about half million bucks.
11 Especially since you did not -- you do not need to
12 bunker the ship, especially Ukraine. You can bunker in
13 Ukraine or bunker it in Singapore. If you bunker it in
14 Singapore, you receive the freight and then you pay for
15 the bunkers.

16 Q Are you familiar with the vessel called
17 the V-EUROPE?

18 A Yes, sir, of course.

19 Q Was that purchased using cash?

20 A Yes.

21 Q How much?

22 A The price of the ship was 6.5 million, as
23 far as I recall.

24 Q The V-AUSTRALIA, do you recall what you
25 purchased that for?

Viktor Baransky - CONFIDENTIAL - December 12, 2013 142

1 A No, I do not recall.
2 Q That was a cash purchase; right?
3 A I think so.
4 Q The V-KERKIS?
5 A Yes.
6 Q Do you remember that purchase?
7 A Yes, I do.
8 Q How much was that for?
9 A I don't know. About 12 million probably.
10 I don't recall.
11 Q That was cash; right?
12 A Yeah, of course.
13 Q And the FATHER S? Do you remember that
14 vessel?
15 A Yeah.
16 Q Was that named after your father?
17 A Yeah.
18 Q And what's the -- what did you purchase
19 that for?
20 A About also 12, maybe 10 million, maybe
21 10 million. Maybe 10 million, I don't know.
22 Q And that's cash?
23 A Yeah, all of the ships were bought cash.
24 Q PHOENIX?
25 A Yeah.

Viktor Baransky - CONFIDENTIAL - December 12, 2013 143

1 Q How much was that cash?

2 A I don't recall. This was cheaper. Maybe
3 9 million. I don't know.

4 Q The CAPE MELBOURNE?

5 A Yes.

6 Q How much was that purchased for?

7 A I don't recall. All of the ships were in
8 numbers around 10 million.

9 Q And the CAPE VIEWER?

10 A Yes.

11 Q How much did you purchase that for?

12 A I don't recall. 9 million or something
13 like that.

14 Q What about the two tankers, do you recall
15 what they were purchased for?

16 A One at 8 million and the other one I
17 don't recall.

18 Q And what about the CAPE CLIMBER?

19 A It's about the same as CAPE VIEWER.

20 Q 8 million cash?

21 A Around that number.

22 Q CAPE MADRESS?

23 A Yes.

24 Q 8 million?

25 A Yes.

Viktor Baransky - CONFIDENTIAL - December 12, 2013 144

1 Q Cash?

2 A Yes.

3 Q And the CAPE KESTREL?

4 A Yes.

5 Q About 10 or 8 million cash?

6 A CAPE KESTREL was 12 million, I think. It
7 was recent one.

8 Q From the time you started your company in
9 November of 2008, it's your testimony that you were
10 able to manage to have cash available in the tune of
11 about \$100 million?

12 A I had more cash available. More than
13 that.

14 Q And none of that came from ICI?

15 A None.

16 MR. CHALOS: We're in the wrong business,
17 Mr. Bennett.

18 BY MR. BENNETT:

19 Q So your testimony as you sit here today
20 is that your father has not provided you with any
21 financial benefits to assist you in any of your
22 business dealings since you left ICI?

23 A No.

24 Q And what about the mother -- the money
25 that your mother had provided to you, where did she

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 145

1 obtain that money from? Was that through your father?

2 A I believe so. I believe so. But that
3 was a divorce settlement back in -- ten years ago.

4 Q Have you discussed with your father the
5 ICI bankruptcy in recent years?

6 A In recent years? I think so, yeah.

7 Q And has he told you where the money went?

8 A As per information -- as per my belief
9 and information, as I was paying -- as I was paying,
10 you know -- and I don't believe that some of the
11 money -- but I don't know, of course, because I am not
12 the one who is -- well, I'm not the one who is
13 responsible for bank accounts. How could I know where
14 the money went? But I don't believe that some of the
15 funds went elsewhere.

16 Q You had listed some assets earlier today,
17 some barges and some crane barges.

18 If I had records which indicated that ICI
19 was actually an owner of a barge that Vista now owns,
20 how would you explain that?

21 A It's impossible for you to have such
22 accurate records, because they do not exist.

23 Q If the insurance records and entry
24 records indicate that there were vessels that ICI
25 controlled either through charter, and they obtained

Viktor Baransky - CONFIDENTIAL - December 12, 2013 146

1 defense cover for those vessels, that are now being
2 operated by Vista, how would you explain that?

3 A This can't be the case, of course,
4 because there are hundreds of Capesizes in the world,
5 and Vista was chartering Capesizes. So what. This
6 doesn't mean anything at all. Absolutely.

7 Q And do you find it a coincidence that
8 when ICI ceased doing business in October of 2008 and
9 Vista began doing business in November of 2008 and had
10 the same main employees and took over the contract to
11 deliver iron ore to China?

12 A What do you mean took over the contract?
13 I don't understand the meaning.

14 Q You began trading on same routes ICI did
15 using the same contacts; correct?

16 A Partially. Not absolutely. Partially.
17 But that --

18 Q For the most part.

19 A That's what everybody did. That's not
20 only Vista did. Because Industrial Carriers ceased
21 existing. What would you do if you were in my place
22 and the company disappeared and you have connections?
23 You would do the same.

24 Q Depends on how I was treated as a
25 shareholder.

ZAHN
COURT REPORTING

www.zahncourtreporting.com

Viktor Baransky - CONFIDENTIAL - December 12, 2013 147

1 A Sorry?

2 Q I guess it would depend; right? You're a
3 shareholder of ICI; correct? You were a shareholder of
4 ICI?

5 A Up --

6 Q You were told you were a shareholder --

7 A Yes, I was told I was a shareholder,
8 yeah.

9 Q And as a shareholder, do you feel that
10 you're obligated to make sure that ICI operated its
11 business in proper fashion?

12 A This is obligation of Board of Directors.

13 Q Did --

14 A If you are a shareholder of Microsoft,
15 are obligated, if something goes wrong with Microsoft
16 to take care of Microsoft.

17 Q Well, we're not talking about Microsoft
18 where there's shares being traded. We're talking about
19 a small, closely-held company where you and your father
20 owned 51 percent of the shares and there's a company
21 that is owed \$19 million and ICI vanishes and doesn't
22 pay them. That's what we're here for today; correct?

23 MR. CHALOS: Objection. What do you mean
24 "vanishes"?

25

Viktor Baransky - CONFIDENTIAL - December 12, 2013 148

1 BY MR. BENNETT:

2 Q ICI owned -- owes Flame \$19 million;
3 correct?

4 A Yeah, based on the -- on the documents,
5 yeah.

6 Q And you don't dispute that ICI owes that
7 money?

8 A I don't know -- I don't dispute nor I
9 cannot -- probably I say owes. Probably.

10 Q So when you were coming here to give
11 testimony, did you speak to your father to get an
12 explanation as to how this all came about?

13 A I met with him, yes, but, well, as I told
14 you, as per information obtained from, not only from
15 him, from others, there is nothing wrong. I don't know
16 details but --

17 Q Does Michael Ivanov know the details?

18 A No. How he could know details? There
19 was a Greek office responsible for everything, for
20 financial transactions.

21 Q Do you have your declaration in front of
22 you?

23 When did you first read your declaration?
24 Do you recall where you were? Were you in the United
25 States or were you somewhere else?

ZAHN
COURT REPORTING

www.zahncourtreporting.com